

Department of Environmental Protection and Resource Management
105 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No.D17:09CO14850

Ronnie M. Fisher

1845 Clarke Boulevard

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on December 15, 2009 and December 22, 2009 for Hearings on a citation for violations of the Baltimore County Code (BCC) section 34-3-101, 104, failure to eliminate sewage flow; 34-3-101; 34-4-103, 104, failure to correct septic system; 35-5-302, failure to maintain premises in a clean, safe, and sanitary condition; 20-2-101, failure to have a connection of toilet and drains made with public sewer on residential property known as 1845 Clarke Boulevard, 21227.

On December 10, 2009, pursuant to § 3-6-205, Baltimore County Code, Inspector Angela Ross issued a Code Enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$200.00 (two hundred dollars) per day.

The following persons appeared for the December 15, 2009 Hearing and testified: Ronnie M. Fisher, Respondent, Angela Ross, Sanitarian with the Environmental Health Division of DEPRM and William Clarke, Manager of the Environmental Health Division of DEPRM.

The following persons appeared for the December 22, 2009 Hearing and testified: Kevin Koepenick, Manager of the Groundwater Management division of the Department of Environmental Protection and Resource Management (DEPRM), Angela Ross, Sanitarian for the Environmental Health division of DEPRM and Yvonne DeLoatch, Manager of the western region of the Environmental Health division of DEPRM.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on December 9, 2009 for immediate correction of failing septic system, eliminate sewage overflow, eliminate discharge and/or accumulation of offensive matter, foul or nauseous liquids, that is a potential nuisance or menace to public health. This Citation was issued on December 10, 2009.

B. A Hearing was held on December 15, 2009. Inspector Angela Ross testified that Respondent's neighbor complained about sewage overflowing from Respondent's yard and running down his driveway. Inspector Ross visited the site on December 4, 2009 and observed a substantial flow of raw sewage coming from Respondent's property, flowing down grade onto the property and driveway of the neighbor at 1847 Clarke Boulevard. Inspector Ross further testified that she checked with the Baltimore County Department of Public Works and was informed that on or about September 28, 2009 DPW work crews discovered and capped off an illegal sewage connection from Respondent's property to the County's nearby storm drain.

C. William Clarke, Manager of the Environmental Health Division of DEPRM, testified that public sewer serves the area but that Respondent's property is not connected to the public sewer. He further testified that Respondent has not been given an order for hookup to the metropolitan sewer system, and that DEPRM does not know whether sewer connection is feasible.

D. Respondent Fisher testified that he is recovering from a car accident and does not have money to make repairs or sewer connection. He has called plumbers and got a plumber to look at the yard this week. The plumber discovered that an outdoor garden hose had been left running for a month and saturated the yard and the septic field. Respondent Fisher believes that was the source of the problem. He further testified that he had a septic service company pump his septic tank out on December 8, 2009.

E. The Hearing Officer asked DEPRM to re-evaluate the site with Respondent Fisher's cooperation and to reconvene this Hearing the following week.

F. On December 22, 2009 the Hearing was reconvened. DEPRM Inspector Angela Ross testified that a dye test was performed on Respondent's septic system. Inspector Kevin Koepenick, Manager of the Groundwater Management division of the Department of Environmental Protection, testified that the dye test and examination of the site found sewage seep on adjacent property, in the same vicinity where the Department of Public Works found and capped off a pipe with illegal connection to the storm sewer. He further testified that review of land records shows that everyone else in this residential area is connected to the public sewer system. Respondent probably has the original septic system from 1953. The system may be a tank to dry well system; it is not uncommon for the dry well, or seepage pit, to fail. Inspector Koepenick testified that it will probably be necessary for Respondent to connect to the sewer system. The nearest connection is 200 feet away, and a grinder pump may be necessary. The County's process of designing, ordering and installing the connection takes 12-18 months, and the cost is amortized to the property owner over 40 years. He further testified that in the meantime, Respondent needs to have a watertight holding tank that is pumped regularly, probably weekly; such a tank costs a few thousand dollars to install.

G. Respondent Fisher testified that he believes the septic system is functioning adequately and that it will not overflow after the excessive water from the running garden hose has had time to drain out. He further testified that he does not have funds to make repairs or sewer connection, and that his wife co-owns the house and is not in contact with him. State property tax records show that Respondents purchased the property in 2006 and that the house was built in 1954.

H. The evidence clearly shows that Respondents' septic system has failed and that raw sewage is flowing onto Respondents' yard and also onto the neighboring property at 1847 Clarke Road. This violates County law and threatens public health, and must be corrected. Because Respondent Fisher has clearly notified Baltimore County that he does not have the financial resources to make the necessary temporary or permanent corrections, this Order will authorize the County to enter the property to make necessary corrections, at Respondents' expense. If appropriate and necessary, the County will have to pursue a separate administrative process under Title 20 of the Baltimore County Code to have the Department of Public Works order, design and install a permanent connection to the metropolitan sewer system.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$200.00 (two hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if Respondents correct the violations or if the County corrects the violations at Respondents' expense, by June 1, 2010.

IT IS FURTHER ORDERED that at any time after the issuance of this Final Order, the County may enter the property for the purpose of correcting the violations and abating the flow of raw sewage, at Respondents' expense, including repairing the existing septic system; installing a holding tank or other temporary correction for the septic system; and/or pumping out the septic tank.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 15th day of January 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Environmental Protection and Resource Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.